HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : **HON'BLE SHRI S.R. NAYAK, CJ.**
HON'BLE SHRI D.R. DESHMUKH, J.

Misc. Appeal No.747 OF 2006

Appellant:		National Insurance Company Limited, Through Assistant Manager,
(Insurer)		National Insurance Company Limited, B-1, Taha Complex, Ist Floor, Ring Road, Priyadarshini Nagar, Bilaspur, (Chhattisgarh).
	Versus	
RESPONDENTS (Driver)	1.	Rajkishore Prasad, S/o. Girja Prasad, R/o. 7 No. Gudipara Road, Kolkatta 15 (West Bengal)
(Owner)	2.	Rajeshwar Rai, S/o. D.L. Rai, R/o. 31 Coal Depot Siyalda, Kolkatta (West Bengal)
(Claimants)	3.	Sumitra Bai, Wife of late Shankar Yadav, aged about 30 years,
	4.	Ku. Saraswati Yadav, D/o. late Shankar Yadav, aged about 15 years,
	5.	Ku. Janki Yadav, D/o. late Shankar Yadav, aged about 12 years.
	6.	Puran Yadav, S/o. Kaushik Yadav, aged about 55 years,
	7.	Parvati Yadav, wife of Puran Yadav, aged about 50 years.
		Respondents No.4 & 5 being Minors are represented through Mother Respondent 3.
		Respondent No.3 to 7 Residents of Village Jora, Police Station Telibandha, Raipur, (Chhattisgarh) presently residing at Village Belsonda, Police Station and Tahsil Mahasamund, (Chhattisgarh)

Present : Shri Sanjay K. Agrawal, learned counsel for the appellant.

ORAL ORDER
(Passed on 26th June, 2006)

The following oral order of the Court was passed by

S.R. Nayak, CJ.

In this appeal preferred by the National Insurance Company Limited assailing the impugned award, the only ground urged by the learned standing counsel for it is that while assessing the loss of dependency, the MACT was not justified in taking the gross total income of the deceased. According to the learned standing counsel, the MACT ought to have deducted the expenditure incurred by the deceased in running the dairy-farm.

2. We do not find any merit in the above contention of the learned standing counsel for the Insurance Company. In the income tax return filed by the deceased during the relevant year, his estimated income from dairy-farm business is shown at Rs.68,700/-, and to that, a sum of Rs.6,600/- is added being "petty interest and other income". Out of Rs.75,300/-, total income of the deceased, the MACT has deducted a sum of Rs.25,100/-, being 1/3rd of the total income towards personal expenditure of the deceased and computed loss of dependency. Although, the appellant-Insurance Company has sought permission before the MACT under Section 170(b) of the Motor Vehicles Act, it had utterly failed to adduce any evidence to show the expenditure incurred by him for running the dairy-farm. The award passed by the MACT is just and reasonable and it does not call for any interference. The appeal is, therefore, dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge